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Ambassador Services, Inc. and International Longshoremen's Association, Locals 1922 and 1359, AFL-CIO and Eric Swanson, Party in Interest.
Cases 12-CA-026758, 12-CA-026759, and 12-CA-026832

November 19, 2014

DECISION AND ORDER

BY CHAIRMAN PEARCE AND MEMBERS JOHNSON
AND SCHIFFER

On September 14, 2012, the Board issued a Decision and Order in this proceeding, which is reported at 358 NLRB No. 130. Thereafter, the Respondent filed a petition for review in the United States Court of Appeals for the Eleventh Circuit, and the General Counsel filed a cross-application for enforcement. In an unpublished per curiam opinion issued on November 15, 2013, an Eleventh Circuit panel enforced the Board's Order in its entirety. The Respondent subsequently filed a petition for certiorari.

At the time of the Board's Decision and Order, the composition of the Board included two persons whose appointments to the Board had been challenged as constitutionally infirm. On June 26, 2014, the United States Supreme Court issued its decision in *NLRB v. Noel Canning*, 134 S.Ct. 2550 (2014), holding that the challenged appointments to the Board were not valid. Thereafter, the Supreme Court granted the petition for certiorari, vacated judgment, and remanded the case to the court of appeals for further consideration in light of *NLRB v. Noel Canning*. The court of appeals then vacated the Board's Decision and Order and remanded this case for further proceedings consistent with the Supreme Court's decision.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

In view of the decision of the Supreme Court in *NLRB v. Noel Canning*, supra, we have considered de novo the judge's decision and the record in light of the exceptions and briefs. We have also considered the now-vacated Decision and Order, and we agree with the rationale set forth therein. Accordingly, we affirm the judge's rulings, findings, and conclusions and adopt the judge's recommended Order to the extent and for the reasons stated in the Decision and Order reported at 358 NLRB No. 130 (2012), which is incorporated herein by refer-

ence. The judge's recommended Order, as further modified herein, is set forth in full below.¹

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge as modified and set forth in full below, and orders that the Respondent, Ambassador Services, Inc., Cape Canaveral, Florida, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Maintaining an unlawfully broad rule prohibiting unauthorized solicitation and/or distribution of literature.

(b) Maintaining an unlawfully broad rule prohibiting walking off the job and/or leaving the premises during working hours without permission.

(c) Informing employees that it had assisted with a petition to decertify the Union as its employees' collective-bargaining representative.

(d) Soliciting employees to sign a petition to decertify the Union.

(e) Informing employees that they could not solicit or distribute literature on the property at which they were working.

(f) Coercively interrogating employees about their union activities.

(g) Failing and refusing to recognize and bargain with the Union.

(h) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Rescind the unlawfully broad rule prohibiting walking off the job and/or leaving the premises during working hours without permission.

(b) Recognize and, on request, bargain with International Longshoremen's Association, Locals 1922 and 1359, AFL-CIO as the exclusive representative of the employees in the following appropriate unit concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

All full-time and regular part-time porters/longshoremen employed by Respondent who receive and transfer luggage and provisions on to and out of the cruise vessels operated by DCL [Disney Cruise Lines] at Port Canaveral, Florida, excluding all other employees, office clerical employees, managerial employees, guards and supervisors as defined in the Act.

¹ We shall substitute a new notice in accordance with *Durham School Services*, 360 NLRB No. 85 (2014).

(c) Within 14 days after service by the Region, post at its facilities in Port Canaveral, Florida, copies of the attached notice marked "Appendix."² Copies of the notice, on forms provided by the Regional Director for Region 12 after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by Respondent at any time since March 27, 2010.

(d) Within 21 days after service by the Region, file with the Regional Director for Region 12 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

IT IS FURTHER ORDERED that the complaint is dismissed insofar as it alleges violations of the Act not specifically found.

Dated, Washington, D.C. November 19, 2014

Mark Gaston Pearce, Chairman

Harry I. Johnson, III, Member

Nancy Schiffer, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

² If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT maintain an unlawfully broad rule prohibiting unauthorized solicitation and/or distribution of literature.

WE WILL NOT maintain an unlawfully broad rule prohibiting walking off the job and/or leaving the premises during working hours without permission.

WE WILL NOT assist with a petition to decertify the Union as your collective-bargaining representative.

WE WILL NOT solicit you to sign a petition to decertify the Union.

WE WILL NOT tell you that you cannot solicit or distribute literature on the property at which you are working.

WE WILL NOT coercively question you about your union activities or the union activities of other employees.

WE WILL NOT fail and refuse to bargain with the Union.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL rescind the unlawfully broad rule prohibiting walking off the job and/or leaving the premises during working hours without permission.

WE WILL recognize and, on request, bargain with International Longshoremen's Association, Locals 1922 and 1359, AFL-CIO as your exclusive representative in the following appropriate unit concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

All full-time and regular part-time porters/longshoremen employed by Respondent who receive and transfer luggage and provisions on to and out of the cruise vessels operated by DCL [Disney Cruise

Lines] at Port Canaveral, Florida, excluding all other employees, office clerical employees, managerial employees, guards and supervisors as defined in the Act.

Board, 1099 14th Street, N.W., Washington, D.C. 20570, or by calling (202) 273-1940.

AMBASSADOR SERVICES, INC.

The Board's decision can be found at www.nlr.gov/case/12-CA-026758 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations

